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HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS SITUATIONS AND REPORTS OF SPECIAL RAPPORTEURS AND REPRESENTATIVES

Letter dated 22 February 1994 from the Permanent Representative of the Sudan to the United Nations addressed to the Secretary-General

Upon instructions from my Government, I have the honour to transmit to you herewith, the comments of the Government of the Sudan on the report of the Special Rapporteur of the Commission on Human Rights on the situation of human rights in the Sudan (E/CN.4/1994/48), submitted to the Commission at its fiftieth session (see annex).

I would be grateful if you would have the text of the present letter and its annex circulated as an official document of the General Assembly under item 104 (c) of the preliminary list.

(Signed) Ali Mohamed Osman YASSIN
Permanent Representative

* A/49/50.

ANNEX

Comments by the Government of the Sudan on the report of the Special Rapporteur of the Commission on Human Rights on the situation of human rights in the Sudan (E/CN.4/1994/48)

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INTRODUCTION

N.B. All Muslims are ordained by God to subject themselves to Shariah laws, and that matter cannot be contested or challenged by any Special Rapporteur or other United Nations agencies or representatives

1. According to resolution 1993/60 of 10 March 1993 of the Commission on Human Rights, the Special Rapporteur for the Sudan, Mr. Gáspár Bíró, was requested to submit a report on the situation of human rights in the Sudan to the Commission at its fiftieth session and an interim report, which he has already submitted (A/48/601, annex) to the General Assembly at its forty-eighth session. To our dismay, the report to the Commission, which has already been distributed (E/CN.4/1994/48) but not yet discussed, proves that the Special Rapporteur has been working, not ultra vires his mandate by exceeding his limits here and there, as is normally the case, but according to a totally different agenda, which has no relation whatsoever with resolution 1993/60.

2. The main objective of that agenda is the abolition of Shariah laws in the Sudan, and its tools are the collection of allegations of human rights' violations from whatever source. In lieu of "verification" of allegations, the Special Rapporteur was engaged in "Collection" of allegations, and instead of seeking information from "credible and reliable" sources, as requested in resolution 1993/60, he has been seeking information from whatever available source, without even taking the trouble of commenting on the credibility and reliability of his sources.

3. Considering the damage done by the mere distribution of the report it will take far more than the good intentions of many members of the Commission to remedy that damage. At the outset, we would like to start these comments by expressing our clear and irreversible position that all references in the report, direct or indirect, to the abolition of Shariah legislation in the Sudan are unacceptable, firstly, because they are against what was ordained by God, and, secondly, because they are naked violations of religious freedom guaranteed by the main human rights conventions, including article 18 of the Universal Declaration of Human Rights and article 18 of the International Covenant on Civil and Political Rights.

4. On the other hand, we request an immediate withdrawal of those references and we are of the opinion that the Special Rapporteur should be brought to justice for his irresponsible remarks regarding the source of Shariah laws contained in paragraph 61 of his report: "It does not matter in this context who the drafter is nor what the sources of inspiration of these norms are".

5. As for the rest of the report, our comments as set out below will follow the paragraphing of the report of the Special Rapporteur for easy reference.

A. Mandate of the Special Rapporteur

The attack on the Government of the Sudan in the field of human rights started with the application of Shariah

6. When explaining, in paragraph 1 of the report (E/CN.4/1994/48), that the situation of human rights in the Sudan was discussed for the first time by the Commission on Human Rights at its forty-seventh session, in 1991, the Special Rapporteur did not tell us why the discussion had begun at that specific time, two years after the present Government assumed power on 30 June 1989, despite the fact that the early months of assumption of power by any revolutionary Government are usually tainted with violations of human rights, and despite the fact that the Special Rapporteur decided in paragraph 8 of his report to concentrate on violations which occurred after 30 June 1989.

7. However, if we relate the beginning of the discussion to the recommendation of the Special Rapporteur contained in paragraph 133 (a) of his report, whereby he called upon the Government of the Sudan to abolish Shariah legislation, one would comfortably reach the conclusion that the discussion began at the forty-seventh session, in 1991, because that session was the first session to be convened after the application of Shariah in the Sudan in early 1991.

8. As for that unprecedented recommendation, it has already been nipped in the bud in the above nota bene, and it suffices here to observe that one should not lose sight of the relationship between the application of Shariah and the beginning of the attack on the human rights record of the Sudan. That relationship explains why the Special Rapporteur has tailored his report in such a manner as would make his call for the abolition of Shariah legislation appear as a normal conclusion. Actually, that relationship is the backbone of the report and shows how the noble issue of human rights has been manipulated to wage war against Islam. What we are really confronted with is not an ordinary human rights report reflecting the legitimate concern of the international community, but a flagrant attack on Islam which goes far beyond the Sudan in violation of the principles of religious freedom guaranteed by the Covenants referred to above.

The decisions of the Commission on Human Rights against the Sudan in 1992 and 1993 are contradictory to the recommendations of the competent working groups

9. In paragraph 1 of his report the Special Rapporteur also declined to explain that the western countries have, in drafting the decisions adopted by the Commission against the Sudan in 1992 and 1993, disregarded the recommendations of the competent working groups. Such an abnormal practice, which is repeated in two consecutive years with regard to one single country (the Sudan) out of the many countries included in the recommendations, could not have gone unnoticed by the Special Rapporteur, who is supposed to be an expert in the field of human rights. But it seems that the authors of those decisions and the Special Rapporteur are working through consistent manipulation of the system towards the same objective, that is to say waging war against the Sudan, not because of its violations of human rights, but because of its application of Shariah. As such, it would not be a fitting tribute for the Special Rapporteur to point out the mishaps of his partners, the authors of those decisions.

Undoubtedly we are going to witness, during this session, how the authors will return that favour by welcoming his report, which calls for the abolition of Shariah legislation in the Sudan, since that is their ultimate objective.

The Special Rapporteur should have been an individual of recognized international standing and expertise in human rights

10. In paragraphs 4 to 6 of his report, the Special Rapporteur has referred to his appointment without making any reference to the qualifications of the Special Rapporteur provided for in paragraph 3 of resolution 1993/60. According to that provision the Special Rapporteur should have been "an individual of recognized international standing and expertise in human rights".

11. Such an omission on the part of the Special Rapporteur is understandable since it is obvious that he could not claim to have met those high qualifications in view of his age (he was born on 16 June 1958) and poor curriculum vitae, compared to the other experts of the Commission, who have been on the job since before he was born.

12. Judging from our experience with the Special Rapporteur, we have already proved his lack of experience and professionalism in section 14 of our comments dated 22 November 1993 (A/C.3/48/17, annex, appendix) on his interim report (A/48/601, annex) by explaining, for example, how he failed to distinguish between "allegations" and "evidence", a distinction which is very pertinent to his mandate. Another example is his failure to set objective criteria for judging the credibility and reliability of the information as expressly requested in paragraph 5 of resolution 1993/60. This will be dealt with in detail in paragraph 14 below.

13. The fact that the Special Rapporteur does not meet the qualifications provided for in paragraph 3 of resolution 1993/60 reflects on the whole of his report, which is no more than a collection of allegations, instead of being a careful study of those allegations in the light of the internationally recognized concepts of evidence, including admissibility, weight and corroboration of evidence. But nowhere in the report do we find reference to those fundamental concepts. It is only fair that the Sudan should not be victimized by his lack of experience, and his report should not be given any serious consideration.

The Special Rapporteur is obliged to seek and receive credible and reliable information

14. In explaining the different aspects of his mandate, the Special Rapporteur referred in paragraph 4 of his report to his obligation "to seek and receive credible and reliable information from Governments, non-governmental organizations and any other parties who had knowledge of those matters". That obligation is the most important aspect of the mandate and was included in paragraph 5 of resolution 1993/60 but, owing to lack of experience, the Special Rapporteur failed to ascertain the importance of that aspect, and that brief reference was the only comment he bothered to make about that obligation.

15. Paragraph 5 of resolution 1993/60 has actually made a very clear distinction between two different concepts: the weight of evidence and the admissibility of evidence. That distinction is recognized by almost all legal systems and is very basic to the kind of reporting entrusted to the Special Rapporteur. But as is clear from the report, the Special Rapporteur has missed the point, and it seems that he has never heard of that distinction, which explains why the report was so confusing, depending in almost all instances on hearsay evidence, which is not only without any evidential weight but also inadmissible in many jurisdictions.

16. Naturally, poor qualifications coupled with lack of experience and a misunderstanding of the central theme of the mandate, namely, credibility, reliability and admissibility of evidence, would not produce a better report than the one we have, which is a mere collection of allegations and hearsay evidence.

The Special Rapporteur reports only a few of the abuses committed by parties other than the Government

17. Under the provisions of Commission on Human Rights resolution 1993/60, the mandate of the Special Rapporteur covers the human rights abuses committed by all parties involved in the armed conflict, as rightly referred to in paragraph 7 of the report. But the Special Rapporteur has not respected that aspect of his mandate for the reasons set out below. First, the interim report concentrates exclusively on the allegations levelled against the Government because, in the words of the Special Rapporteur in paragraph 9 of his interim report "the circumstances of the September mission were not appropriate for a thorough investigation of reports on violations of human rights by different Sudan People's Liberation Army (SPLA) factions in southern Sudan, although several reliable reports and information were already gathered in this respect". Second, the whole period dedicated by the Special Rapporteur to abuses committed by parties other than the Government is from 10 to 13 December 1993 including travelling days (see para. 13 of his report). Undoubtedly, that short period was not enough to carry out the "thorough investigation" promised in paragraph 9 of his interim report, taking into consideration the size of southern Sudan and the circumstances of the conflict. We are sure that his own agenda would not have made any circumstances appropriate for him to investigate the abuses of the rebel factions.

18. The above explanations show beyond reasonable doubt that the Special Rapporteur has not been genuine in investigating abuses committed by parties other than the Government, and we believe that is why he has confined his reporting on those abuses to six paragraphs (paras. 114-119) while allocating 87 paragraphs (paras. 26-119) to alleged abuses by the Government.

19. Actually, we have not been shocked by that unbalanced approach of the Special Rapporteur but by the remarks of the Special Rapporteur in paragraph 7 of his report where he described that unbalanced approach as "respecting" the terms of resolution 1993/60. To say the least, that reference is inaccurate and misleading because he has actually disregarded his mandate and singled out the Government of the Sudan as a main target for his unfair play.

B. Activities of the Special Rapporteur

The Special Rapporteur was not serious about his visits to the Sudan and has dishonestly declined to report certain incidents

20. A careful reading of paragraphs 10 to 16 shows that the Sudan was most willing to receive the Special Rapporteur after the return of the Minister of Justice, who is at the same time the Chairman of the High Council for Human Rights in the Sudan, from New York, but owing to the insistence of the Special Rapporteur on scheduling his visit from 14 to 17 December 1993 (before Christmas), Sudan agreed to receive him during that period. However, instead of giving credit to the Sudan he preferred to express his gratitude to the various United Nations agencies, indirectly blaming the Sudan for the meetings he failed to convene and for the cancellation of his visit to Kajo Kaji, for which the Government had issued security clearance on 18 December 1993. Not only that, but he declined to explain that he had requested to visit Juba and Malakal on 16 and 17 December 1993 and that the Government agreed to his request and made all the necessary arrangements for those visits. Nevertheless, he decided to cancel them on the evening of 15 December 1993, preferring relaxation and engagement in indoor consultations with biased sources at Khartoum to the field visits most needed to verify the allegations. He has been really keen to go back to enjoy his Christmas rather than to take the trouble of a more than four-hour flight to Juba and Malakal. Ironically, he was calling that respect for his mandate.

21. In addition to all that, the Special Rapporteur turned down an invitation extended by the Minister of Justice to attend a seminar on the rights of the child convened at Khartoum from 18 to 20 December 1993 under auspices of the Sudanese National Council for Child Welfare and the United Nations Children's Fund (UNICEF). No better chance could have been available to him for a close scrutiny of the advanced legislation of the Sudan in the field of the rights of the child, but we believe that he intentionally refused to attend in order to deprive the Government of the Sudan of the opportunity to clear its record on that important issue. To our astonishment, he also declined to report his refusal. But it seems he did so intentionally so as to justify the crocodile tears he shed about children's rights in paragraphs 86 to 108 of his report, which will be commented upon at length at a later stage.

22. An even worse incident was his refusal to attend the opening of a trial of some of the persons whom he inquired about that took place on 20 December 1993, preferring to report in paragraph 55 that he "sincerely hopes that their trial, unlike those referred to above, will be in conformity with the international standards for a fair trial and that independent monitors will be allowed to attend the trial". What independent monitors was he talking about, while he himself has chosen to miss that golden chance to judge for himself how fairly trials are conducted in the Sudan. But once again we believe that he preferred to deprive the Government of the Sudan of first-hand testimony to clear the unfounded allegations levelled against it under what are called "arbitrary trials". Undoubtedly, that is an invaluable piece of evidence proving that the Special Rapporteur was not at all serious about his mandate. On the other hand, his failure to report his refusal to accept the invitations to attend both the seminar and the trial raises a lot of doubts about his honesty and credibility.

23. Those incidents and events show that the Special Rapporteur was not serious about convening any meetings or visiting any places in the Sudan because it seems that he had already reached his conclusions long before he requested to visit the Sudan.

24. As a matter of fact, those incidents reaffirm the dishonesty of the Special Rapporteur, not only in tilting the balance of his report to the benefit of the SPLA, but also in the reporting of the facts of his visits to the Sudan. In this context, the dishonesty of the Special Rapporteur has gone to the extent of contradicting paragraph 24 of his own interim report, where he expressly reflected the cooperation of the Government of the Sudan, which is also reflected in General Assembly resolution 48/147 of 20 December 1993.

I. LEGAL FRAMEWORK

A. General obligations of the Government of the Sudan

The obligations of Governments under international law are too obvious to be reported in detail

25. It seems that the Special Rapporteur, haunted by his lack of experience and professionalism and feeling guilty about his dishonest reporting, is making the utmost effort to impress the distinguished members of the Commission, especially those members with no legal background. That explains why he has devoted many paragraphs of his report (paras. 17-21) to elaborating on the obligations of the Government of the Sudan under international law, a matter which is too obvious to be referred to, let alone to be reported in detail. When courts of law in any jurisdiction are confronted with such obligations they simply take judicial notice of them without putting any burden of proof with regard to those obligations on either party.

26. However, the issue which should have been addressed by the Special Rapporteur in that connection is the contradiction between his politically motivated call for the abolition of Shariah laws contained in paragraph 133 of his report and the freedom of religion guaranteed by the international conventions referred to in paragraphs 17 to 21 of his report.

B. The context of violations, with special regard to violations of humanitarian law

The violations reported are to be considered in the context of a 10-year civil war in the south

27. We agree fully with the above-mentioned remark of the Special Rapporteur contained in paragraph 22 of his report, but, as is expected, the Special Rapporteur would not elaborate where elaboration was most needed. The facts of that civil war, to which all the alleged violations are attributable and which the Special Rapporteur declined to elaborate upon are as follows:

(a) The latest round of that war started in 1983, long before the present Government in the Sudan assumed power and also before the application of Shariah in the Sudan, whether by the Government of President Niemeri or the present Government;

(b) The present Government is and has always been keen to reach a peaceful solution to the conflict and actually began efforts in that direction soon after it assumed power by convening the National Dialogue Conference in September/ October 1989 and welcoming and attending all peace initiatives up to the current Intergovernmental Authority on Drought and Development initiative chaired by His Excellency President Moi of Kenya. On the other side, the rebel factions have always been blocking those initiatives and engaging in deadly fighting among themselves for "personal and ethnic motives", as rightly observed by Mr. Pronk, the Minister of Development and International Cooperation of the Netherlands who visited the Sudan in 1993 (see para. 15 (c) of our comments to the General Assembly dated 23 November 1993 (A/C.3/48/17)). Moreover, the Government of the Sudan has adopted a conciliatory policy which no one would have dreamt of, including exempting southern Sudan from Shariah laws, sharing power and wealth, and implementing a federal system;

(c) Efforts to facilitate dialogue among the parties to the armed conflict, of which the Government of the Sudan has had the biggest share, have been welcomed by the General Assembly in its resolution 48/147.

28. Apart from the civil war, the Special Rapporteur referred in paragraph 22 of his report to the abolition of a curfew on Khartoum in October 1993, but as usual he would not let the Government of the Sudan enjoy that rare favourable comment, so he went on in that same paragraph to state that he "has no information about the situation in other locations in northern Sudan". Who on earth would have that information if the Special Rapporteur himself, who has visited the Sudan twice, pretends not to have it? We really envy the Special Rapporteur for his unmatched ability to raise doubts whenever there is any positive aspect to credit the Government.

<u>The respect of the Government of the Sudan for humanitarian law has been commended by the United Nations</u>

29. The efforts of the Government of the Sudan in the field of humanitarian assistance, which resulted in a series of bilateral and multilateral agreements with international, regional and national agencies, have made the General Assembly adopt a resolution during its forty-eighth session in recognition and appreciation of those efforts. Moreover, the reports of Mr. Vieri Traxler, the Representative of the Secretary-General, who visited the Sudan twice during 1993, have explained and appreciated the extensive efforts of the Government of the Sudan in that connection. On the other hand, had it not been for the cooperation extended by the Government of the Sudan, the humanitarian work appreciated by the General Assembly in its resolution 48/147 would not have been possible.

30. Not only did the Special Rapporteur turn a blind eye to all those tremendous efforts, but he also declined to report the interference of the rebel factions with the delivery of humanitarian relief, despite the magnitude of that

interference, which included the killing of relief workers, confiscation of relief shipments and attacks against land and water relief deliveries. Luckily, that intentional omission on the part of the Special Rapporteur cannot cancel the official United Nations reports evidencing those interferences by the rebel factions.

Wrong reporting

31. The shortcomings of the Special Rapporteur's reporting are not confined to dishonest omissions and malicious elaborations, but include straightforward wrong reporting, which contradicts the documentary evidence he admitted to having received.

32. A case in point is the constitution of the Sudan referred to in paragraph 25 of his report. The Government of the Sudan never, whether verbally or in writing, told the Special Rapporteur that it was working on a constitution at the present time. On the contrary, we have made that issue crystal clear by giving him copies of all the constitutional instruments which are in force. During his first visit, we gave him a copy of volume one of the laws of the Sudan (6th edition) which contains constitutional decrees Nos. 1 to 5, plus No. 6, which contains miscellaneous amendments.

33. During his second visit, we gave him copies of the recent constitutional decrees Nos. 7 to 9 plus another copy of volume one of the laws of the Sudan to make sure that he had a full set of all the constitutional instruments in force up to that time. Not only that, but we were keen to evidence that by a covering letter, which he received personally in front of his aides.

34. In the light of those facts, we were really unable to understand the reference in paragraph 25 of his report that he "did not receive any text of a draft constitution, despite his request for such a text".

35. To give him the benefit of the doubt, such a misunderstanding could have been attributed to his inability to understand the English language, but that explanation was unacceptable because he was accompanied by an able interpreter. So, one more question mark is added to his performance, which is already full of many question marks.

II. REPORTED HUMAN RIGHTS VIOLATIONS

A. Violations by the Government of the Sudan

1. Extrajudicial killings and summary executions

They are fair trials and not extrajudicial killings and summary executions

36. The Special Rapporteur has resorted, in paragraphs 26 and 27 of his report to generalizations and prejudicial opinions in dealing with the issue of "extrajudicial killings and summary executions". His remarks are blunt and unabashedly hostile. He seems to have shed, altogether, his previous disguise of neutrality, and he seems to be determined to condemn the Government at all costs, without due regard to his credibility as a United Nations official. Many of his remarks seems to be impetuous and lack that sense of deliberation and grave concern which is often associated with the briefs, memoranda, or reports of experienced lawyers and legal academicians.

37. He refers repeatedly in his report to the court martial of the army officers, who attempted a coup d'état in April 1990, which threatened to be a bloody affair, had it been successful, judging from the captured documents. Military officers who attempted to overthrow the legitimate Government by force (in 1990 and 1991) have been properly charged under the People's Armed Forces Act of 1986, the Rules of Procedure for that Act, and the Penal Code of 1983. The Army's legislation, like that of any other army in the world, provides for court martials and field court martials. The plotters face charges under section 47 of the People's Armed Forces Act, section 127 of the Code of Procedure and section 96 of the Penal Code. Charges under section 47 of the People's Armed Forces Act relate to mutiny, which is punishable by death or by any other lesser punishment. The offence covers attempt, abetment, causing or conspiring with other individuals to facilitate any mutiny against the legitimate authority. The right to object to the Chairman or any member of the court is ensured under section 136 (a) of the Rules of Procedure. The right of the accused to be assisted in his defence by a legal adviser during the trial, or by any other person of his choice, is guaranteed under section 141 (a) of the Rules of Procedure. Sentences are subject to appeal or review before higher judicial bodies, which are entitled to cancel, amend or confirm them.

38. The Act also applies to any person accused of committing any of the said crimes if the Commander-in-Chief, with the approval of the Attorney-General, so decides. This could include retired army officers or civilians.

39. The trial of the army officers frequently referred to by the Special Rapporteur was carried out by a competent military tribunal in 1991 under the People's Armed Forces Act. The trial lasted for more than three months. The defendants were availed of all means for defending themselves. Some of them confessed to the crime. Of the 26 accused, 25 were convicted; two were sentenced to death, but the State immediately commuted their sentence to life imprisonment. Most of those imprisoned have since been pardoned and released in accordance with the amnesty declared by the Head of State. There are no (Government-sponsored) summary executions in the Sudan. Any arrest, detention

or penalty, even in areas of war zones in the south is subject to the Sudanese applicable laws, competent courts and due process of the law.

40. According to contemporary international law, dealing with the issue of human rights in peace times is different from dealing with it in war times. The international community has acknowledged that reality and made provision for the matter in the four Geneva Conventions of 1949 dealing with human rights in times of war. The military in the Sudan in areas of armed conflict has sometimes been accused of arbitrarily killing non-combatant civilians. All such accusations were fully investigated. It is worth mentioning that in November 1992 a commission was formed by order of the Head of State to investigate the incidents that took place in Juba town during July and August 1992. The Commission is headed by an experienced and senior Supreme Court Judge. Moreover, if the procedure followed by military and other tribunals which tried the cases frequently referred to by some non-governmental organizations were arbitrary, then one would not expect sentences handed down by such courts to be uniform. In fact, these courts passed all types of sentences, and some of the accused were actually found not guilty.

41. Complex human rights problems occur in situations of internal armed conflict. We cannot stress strongly enough the fact that there is now full observance by the Sudan of its international human rights commitments. There is no truth to allegations of indiscriminate violence by Sudanese armed forces against civilian populations in the war zone in the south and in some other parts of the country. Such practices are actually mostly identified with insurgents in the south or armed robbers, who have turned some parts of western Sudan into a lawless no-man's land. They robbed and killed hundreds of innocent women, children and elderly civilians. Reports of summary and arbitrary executions of civilians by forces loyal to the rebel groups are now widespread. The so-called Sudanese People's Liberation Army/Movement (SPLA/M) Nasir Group accused John Garang of summarily executing without due process several of his political rivals. Non-governmental organizations monitoring the situation can be accused of bias or of fomenting "terrorism". The "impartiality" of their reporting is to be assessed from the attention they are giving to violations by the Government while ignoring opposition abuses. Amnesty International, for example, uses the neutral term "armed opposition groups". This might confer legitimacy on a movement that is carrying arms against the legitimate Government.

42. The Government of the Sudan is fully aware of the clandestine meeting that the Special Rapporteur had with two relatives of the officers concerned, which was arranged by a western diplomat, and the boastful remarks made later on by the relatives concerned that they had succeeded in turning the Special Rapporteur against the Government. In other words, if the Special Rapporteur has substituted his role as a dignified representative of the United Nations with that of a detective under cover, then naturally he has to bear the responsibility of his erroneous conclusions and their negative implication for his credibility.

43. Moreover, his classification in paragraph 28 of the shooting of Abu Bakr Mahy Al-Din Rasikh as an extrajudicial execution, because of his alleged criticism of the Government goes beyond the limits of reason and rationality and

shows a lack of judgement unworthy of the gravity of his responsibility. A simple case of manslaughter or murder, which is a matter for police investigation and eventually judicial handling, is in the view of the Special Rapporteur a case worthy of United Nations investigation and a means of condemning the Government. Such an attitude makes a mockery of all that the Commission on Human Rights is trying to achieve. What is really astonishing is the fact that the Special Rapporteur did not ask for information about that case but preferred to report the allegations as received by him. Actually, in that particular case, the legal immunity of the security officer was lifted immediately and the case has been transferred to the Ministry of Justice, which is now taking legal action against the security officer.

44. Cases of treason resulting in hundreds of civilian and military casualties in the town of Juba, and their handling by court martial, seem to continue to attract hostile comments from the Special Rapporteur in paragraphs 30 to 33, in his pursuit of a hostile campaign against the Government. Since among the persons involved in this case were two local employees of the Embassy of the United States of America and the European Community, the Government decided, out of courtesy to the two diplomatic missions, to set up a Special Commission, headed by a High Court Judge, to investigate the circumstances of the case and report its conclusions to the Head of the State. However, the Commission has been inundated since its inception, with hundreds of inquiries, many of them from the Special Rapporteur, which caused it to delay the finalization of its report. The Special Rapporteur had a meeting with the Chairman of this Commission during his recent visit to the country (para. 14 of the report), yet he failed to reflect what transpired at the meeting in his report (para. 30). At that meeting, the Chairman told the Special Rapporteur that he had asked the Centre for Human Rights officially to tell him whether the Centre still had new lists of names, because the Commission had been stopped from finalizing its report because of the continuous flow of lists. The Centre did not respond. The Special Rapporteur is supposed to solve that issue by contacting the Centre, but it seems he will not do so because he wants the issue to remain open to justify the continuation of his mandate. On the other hand, it is worth mentioning in this respect that the Government established the Commission on 25 November 1992, before such establishment was requested by the General Assembly on 18 December 1992.

45. His reference to reprisals against the population of Juba in paragraph 33 does not conform with the facts of the situation. There were two consecutive attacks on Juba by rebel forces, with a short interval in between. The attacks and the shelling of the town by rocket batteries inflicted heavy casualties on the population and the garrison, and the consequent withdrawal by the rebel forces, with the Government forces in hot pursuit, led to heavier casualties among the rebels. The Special Rapporteur failed to mention the intense combat which took place within and around the town, and chose to portray the conflict as reprisals undertaken by Government troops in cold blood.

46. The conclusions reached by the Special Rapporteur as to the executions and arbitrary killings of "thousands of civilians" without introducing any evidence or proof is in contravention of his training as a lawyer and of the requirements of his profession, let alone the requirements of his mandate. Such accusations cannot be made lightly, either based on the evidence of an individual or a

report, without first establishing the credibility of such evidence or reports and ensuring that the source is not an involved party in the political and military conflict in the country. Especially disturbing is his statement regarding the arbitrary killing of thousands of civilians, which is based on conjuncture rather than solid facts and can fall in the category of wild accusation unbecoming of a trained lawyer and a United Nations official entrusted with a serious mission.

47. The same can be said about his reporting on aerial bombardment of rebel-held areas and the dropping of bombs on market-places or "close to a Christian mission and a relief centre". The selection of the alleged targets and the reference to a Christian place of worship is reminiscent of the propaganda reporting during the Second World War, which was designed to generate the maximum sympathy for the supposed victims. One wonders if the Special Rapporteur has been led to adopt this line of psychological warfare by some interested party, or if he is deliberately pursuing a policy of vilification against the Government. The areas referred to in the narrative are not densely occupied by physical structures and are not heavily populated, and military targets are not difficult to identify and pinpoint. A trained observer can be relied upon to distinguish between the facts of the case and the line which certain quarters wish to propagate, and, in our view, the Special Rapporteur has failed dismally in his mission to examine, establish the facts and report honestly on his findings. His reference to the racial identity of the Popular Defense Forces, can only serve the sinister objectives of those who are striving to project the ongoing conflict in southern Sudan as a racial war, and his attempts to cast doubt on the attack on the relief trains by units of the SPLA flies in the face of truth, as such attacks have often been reported in the international media and referred to in the reports of the relief agencies operating in the region.

2. Enforced or involuntary disappearances

The record of the Government of the Sudan on enforced and involuntary disappearances is one of the best, as evidenced by the report of the Working Group on Enforced or Involuntary Disappearances dated 22 December 1993

48. The Special Rapporteur often refers in his report, under this item to "ghost houses", a pejorative expression often used by elements hostile to the Government. We believe that it is unbecoming of him to make use of such expressions in United Nations documents, and that it demonstrates that the narrative appearing in his report lacks the element of objectivity. The Government of the Sudan has already responded to his query regarding the three northern politicians mentioned in paragraph 38 of the report. These politicians were released from detention in July and August 1993. The Special Rapporteur regretted his inability to include this information in his report (note dated 24 January 1994) on account of the fact that the report was finalized prior to the receipt of the information. He, however, promised to include it in an addendum to his report. This promise was not fulfilled and he merely mentioned in the report that two of them had "reappeared" - meaning, no doubt, from the "ghost houses" he referred to in his narrative. The Government

of the Sudan finds this language both facetious and insulting, and, on the whole unacceptable.

49. In his reference to the report of the Working Group on Enforced or Involuntary Disappearances (E/CN.4/1994/26), the Special Rapporteur failed to mention that the Government has responded to the queries of the Group whenever the information was available given the vast expanse of the country and the poor communications with the outlying districts. As a matter of fact, two cases have been clarified, and at least one case could not be clarified because of the time factor prior to the adoption of the report of the Working Group (para. 459 of the report). This information was conveniently overlooked by the Special Rapporteur.

50. The allegations mentioned in paragraph 40 are a repetition of those referred to in paragraph 33, and the reason that they are being repeated in different sections of the report is to give emphasis to them, in the absence of positive proof to substantiate them, apart from the Special Rapporteur's resort to expressions, such as "it has been reported" or "it is feared".

3. Torture and other cruel, inhuman or degrading treatment

The responses pertaining to torture and other cruel inhuman or degrading treatment submitted by the Government of the Sudan have been appreciated by the competent Rapporteur (document E/CN.4/1994/31 dated 6 January 1994)

51. The frequent references by the Special Rapporteur to the so-called "ghost houses" and his allegation in paragraph 41 that he received floor plans, and that the information he received gives the exact location of one of them, could have been cleared by requesting the authorities to visit that particular location. If the response of the authorities was positive, then he would either confirm the information he received or else refute the allegation. In case of a negative response, he would then be fully justified in reflecting it in his report, instead he chose to repeat the allegations without bothering to investigate them.

52. The methods of torture he enumerates in paragraph 42 are listed against practically the majority of the Members of the United Nations, and whether they are applied in the Sudan or does not merit the concern of the Special Rapporteur. It is sufficient that his sources have reported them to him, and whatever comes from these sources is incorporated in the report as irrefutable information. The Government of the Sudan, however, takes exception to his reference in paragraph 42 of "sexual assault including rape" committed, according to his allegations, by members of the security agencies. This method may be rampant in other countries, which, by the way, seem not to be accountable for their deeds, for obvious political considerations but it is abhorrent to the Sudanese code of conduct, and the fact that the Special Rapporteur chose to attribute it to the authorities in the Sudan only shows how little he understands the country and its set of values.

53. The case in paragraph 44 of retired Brigadier Mohamed Ahmed Al-Rayah appeared often in the report of the Special Rapporteur, and his repeated

complaints are taken as factual, without due consideration to the fact that the Chief Justice of the Sudan has appointed a district judge to look into the complaints to enable the authorities to take legal action, should the need arise. The Special Rapporteur did not mention that the prison sentence has been further reduced to two-and-one-half years.

54. The case in paragraph 45 of Dr. Ali Fadul is one of the cases that the Special Rapporteur is doggedly pursuing, in spite of the fact that Dr. Fadul's death while he was still in detention in April 1990 was due to natural causes. He succumbed to a severe attack of malaria. The authorities have supplied the Special Rapporteur with the details of the case, but he seems to be determined to exceed his mandate by continuously challenging the information supplied by the Government. Surely such an attitude, apart from being hostile and prejudiced, is beginning to give the impression that any attempt on the part of the Government to cooperate with the Special Rapporteur is an exercise in futility. He often exhibits an attitude of impatience and arrogance in dealing with government officials. His repeated reference to the President of the Republic's inability to receive him is impertinent, and he would be well advised to desist in future from any reference to this issue in his reports.

55. The cases in paragraph 49 of Ismail Sultan, Kordobeir Bashir and Ibrahim Bashir, who died in El Obeid prison of natural causes, and whose deaths were certified by the prison doctor, were again challenged by the Special Rapporteur, who preferred to go along with allegations of his "informed sources". The credibility gap between the Government and the Special Rapporteur is getting wider on account of his attitude.

56. The case in paragraph 50 of the relief supplies train between Babanusa and Wau is yet another example of the one-sidedness of the Special Rapporteur. This train is usually guarded by government forces and Popular Defence Forces familiar with the terrain and the population concentrations along the route. The train has often been ambushed by rebel elements, which resulted in casualties among government forces and loss of relief supplies. These facts are not reflected in the report, and the Special Rapporteur has the temerity to continuously point an accusing finger at the Government side.

57. His remarks about the women's prison in Omdurman, are, to say the least, lacking in truthfulness and courtesy. His description of the improvements that have been taking place since his last visit as "slight" is clearly indicative of his reluctance to show appreciation towards anything that might be considered constructive or positive on the Government's side.

58. On the other hand, the Sudan has incorporated in its penal code of 1991 some forms of punishment which have unfairly been described by the Special Rapporteur as harsh, cruel, degrading or inhumane and contrary to the Universal Declaration of Human Rights. Hudud, which met the brunt of the criticism, is a punishment ordained by the Holy Quran. The Sudan has introduced in its Criminal Code what is known in Islam as Qisas, i.e., the law of retribution, where the accused receives a punishment equal to the offence he has committed. Whether these forms of punishments are harsh or not, Muslims are obliged to apply them provided that all the elements of the offence are satisfied. Muslims have no choice but to apply them because they form an integral part of their religion.

To deny them the right amounts to a clear violation of the right of belief and choice of religion, as expressed in article 18 of the Universal Declaration of Human Rights and article 18 of the International Covenant on Civil and Political Rights.

59. Moreover, Muslims believe that these laws are the best laws to be applied to prevent crime, punish criminals and create peace and stability in the country.

60. These punishments, or hududs, can only be avoided or commuted in circumstances prescribed by Shariah law itself. Such mitigating or extenuating circumstances are quite numerous in each case of hudud.

61. Sudanese courts always resort to these mitigating circumstances, and for this reason such punishments are rarely implemented. These punishments or prohibitions are actually designed to deter rather than to inflict the actual punishments. A number of years have elapsed since such punishment as amputation of hands, cross-limb amputation or crucifixion have been imposed, but without wide application. This is because of the difficulty or rather the impossibility of establishing an offence of hudud, as the burden of proof is very onerous. On the other hand, all verdicts of death penalty, amputation and life imprisonment have to be submitted to the Supreme Court for confirmation (sect. 181 of the Code of Criminal Procedure).

62. The Penal Code of 1991 specifies a few mitigating circumstances which enable the judge to avoid imposition of the death penalty. The law gives the deceased's blood relatives the right to pardon the accused, and the law provides for payment of dia (blood money) as a monetary compensation to relatives of the deceased and as an alternative to the death penalty. It also helps to reduce tension between the families of the deceased and the accused.

63. It is worth mentioning that southern Sudan is currently exempted from those sections of the 1991 Criminal Act.

64. So we believe that the call by the Special Rapporteur for the abolition of those provisions is blasphemous, offends the feelings of Muslims worldwide and should be withdrawn. We even call upon the Commission on Human Rights to bring the Special Rapporteur to justice.

4. Arbitrary arrest and detention, and due process of law

65. The process of arrest, detention and trial is not carried out arbitrarily but is subject to the legal procedures provided for in criminal procedure and national security laws, and consequently any action exceeding those procedures is considered an offence. The Special Rapporteur must have been fully aware of these laws since he was given copies of them during his visit to the Sudan. In addition, he also received a full reply regarding all allegations of arbitrary arrest, detention and trials.

66. In spite of the foregoing, the Special Rapporteur, in paragraphs 52 to 58, reported generally about arbitrary arrest and detention and trial, but without

referring to one single case. These mere allegations collected by the Special Rapporteur are in contradiction of his mandate, which obliges him to seek credible and reliable information. We affirm, in this connection, that the Government respects the right of the individual not to be arrested, detained or tried arbitrarily, not only because it is a mandate of international law, but more importantly because it is ordained by God and must be fully adhered to in all Muslim societies.

67. It is an established fact that the laws governing detention in the Sudan are in full compliance with the principles of International law enshrined in articles 5 and 9 of the Universal Declaration of Human Rights, which provide that no one shall be subjected to arbitrary detention or torture, and that those principles have been given the force of law. The Sudan National Security Act 1990, as amended in 1991 and 1992, has elaborated in that regard in a more detailed manner as follows:

(a) The National Security Council can only order detention for the protection of public security for a period not exceeding three months;

(b) The detainee has the right to be informed of the reasons of his detention;

(c) The detainee shall not be subjected to any physical harm or cruel treatment;

(d) The detainee also has the right to complaint to the competent Magistrate about non-compliance with the safeguards provided for under the law;

(e) The National Security Council may make an order extending the detention for three months if it deems that the public security so requires, but such order for the extension of detention is subject to judicial review;

(f) Any person released under judicial review shall not be detained again except after the expiry of one month, or with the prior permission of the Magistrate concerned;

(g) Any person acquitted by any court under the National Security Act shall not be detained for being suspected of having committed an offence against the security of the State except after the expiry of one month as of the date of acquittal or with the prior permission of the Magistrate;

(h) Any person violating the aforementioned provisions shall be punished with imprisonment for a period which may extend to 10 years.

68. In addition to the tight legal regime described above, which makes detention subject to strict judicial supervision, the Government of the Sudan has taken the following further measures:

(a) Provisions were introduced for the first time in the Sudan Penal Code 1991, making all acts of torture or ill-treatment of detainees criminal (sects. 89, 90 and 115);

(b) A legal Counsel from the Attorney-General's Chambers was designated to make unscheduled visits to detention centres in order to ensure that detainees are treated according to law and to take legal proceedings against any law enforcement officer abusing his powers. Statistics show that during the period from November 1991 to November 1992, 12 criminal complaints were filed against 23 security officers suspected of torture or ill-treatment of detainees;

(c) The authorities concerned have started to organize seminars for the security officers, in which eminent lawyers and opinion leaders lecture them on relevant international conventions, religious teachings and national laws prohibiting torture and ill-treatment of detainees;

(d) Many judicial and other investigation committees have been set up (on Juba incidents, Kazan Jaded, etc.) to investigate all allegations concerning abuse of power. Legal action has and will be taken against any law enforcement officers found guilty of abuse of power.

69. Having said that much about the theoretical aspect of the legal regime governing detention in the Sudan, it remains to be said further that the objective verification of the allegations made against the Government of the Sudan shows beyond any reasonable doubt that most of those allegations are groundless, as is clear from the following:

(a) The Special Rapporteur himself (he was then an Independent Expert) mentioned in paragraph 27 of his report (E/CN.4/1993/R.4) submitted to the Commission on Human Rights at its forty-ninth session that the Government of the Sudan had introduced to him Mr. Louis Gore, whom Amnesty International and other sources had alleged to have been arbitrarily detained and tortured. In that paragraph the independent expert explained the facts of the allegations as follows: "Louis Gore was introduced to the independent expert personally. He told the independent expert he had been detained for three days and that he had not been tortured - his general physical condition and behaviour at first glance appeared as normal." Most of the allegations made against the Sudan and reported to the Special Rapporteur were similar to the allegations made with regard to Louis Gore, but the authorities were not conveniently able to introduce the persons concerned to the Special Rapporteur because his visit to the Sudan was very brief, given the enormity of the allegations and the size of the Sudan;

(b) The independent expert also visited one prison in the Sudan (Kober Prison), which he has described as follows: "In Kober Prison there was a number of approximately 15 persons who had participated in the 1990 plot, whose sentences had been reduced as a result of successive amnesties ... the condition of these persons ... was very good, since their relatives supplied them regularly with food, books, newspapers, radio and one T.V. set. ... The independent expert is inclined to conclude that human rights are respected in the Kober Prison. This opinion is shared by independent sources also." It is hard to believe that a Government so keen to respect the human rights of persons participating in a plot against that Government, as testified to by the independent expert, would violate the human rights of other detainees committing less serious political offences, as reported in the allegations made against the Sudan in the report of the Special Rapporteur;

(c) We have past experience with unfair allegations levelled against the Sudan as those published by Amnesty International in its document dated 30 November 1992 (AI Index: AFR 54/33/92), where it was alleged that 20 persons were detained and that there was serious concern that they are at risk of being tortured. At that time, Amnesty International did not bother to contact the Government of the Sudan for clarifications before publishing those allegations. As a consequence, those allegations have entered into the report of the independent expert despite the fact that they are groundless since seven of the persons alleged to have been detained have never been arrested, 12 were arrested for a very brief period of time and released after completion of the investigations and the last one was sentenced by an ordinary criminal court to four years' imprisonment for embezzlement. The arrest followed an armed attack against Malakal City in late October 1992 in which many civilians lost their lives. The measures taken were only normal in the circumstances, and the persons concerned are available to testify to the falsity of the allegations of torture. The Special Rapporteur is repeating against the same experience by reiterating allegations which are either unfounded or have been clarified.

70. In conclusion, we believe that the noble issue of human rights and the procedures of the Commission on Human Rights, which is a very important institution, were and are being used and manipulated for political and ulterior purposes, and if we allow that trend to continue, it would certainly defeat any endeavour to protect or promote human rights.

5. Provisions of the penal legislation inconsistent with international norms

Provisions of the penal legislation are not inconsistent with international norms

71. In his report the Special Rapporteur mentioned that the criminal law applied in the Sudan contains two main components: one of them consists of Hudud offences and the other Guisas offences. According to his view, these two components contradict the provisions of the international conventions to which the Sudan is a party but he failed to mention the conventions to which the application of Hudud and Quisas is contradictory.

72. Our response to that remark is nothing more than what we have already stated, and we again urge the Commission on Human Rights to ask the Special Rapporteur to withdraw his remarks calling for the abolition of Shariah legislation and to bring him to justice for offending the feelings of all Muslims worldwide, since his call is not warranted and contradicts the freedom of religion provided for in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

6. Slavery, servitude, slave trade, forced labour and similar institutions and practices

73. Under this part of the report, the Special Rapporteur is not sure of the conclusion he has reached in paragraph 65 of his report. In that paragraph, he

stated: "the argument that these practices occur on a tribal basis does not change the fact that they seem to fall under article 1 of the Slavery Convention (1926) ...". This uncertainty in the words of the Special Rapporteur is obviously attributable to the lack of comparison existing between the hearsay he narrated under this part of his report, as opposed to the strong, clear, and solid phrasing of the Sudanese Penal Code of 1991. In this Code, the crimes of abduction (art. 161), kidnapping (art. 162), forced labour (art. 163), unlawful confinement (art. 164) and unlawful detention (art. 165) are punishable with imprisonment for periods not exceeding 7 years, 10 years, 1 year, 3 months, and 1 year, respectively.

74. Not even a layman would attempt to interpret article 1 of the Slavery Convention and articles 1 and 7 of the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery the way the Special Rapporteur did. Article 1 of the Slavery Convention defines slavery as: "the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised". The Special Rapporteur, given the legal measures outlined above, failed to establish, through the allegations and hearsay he has compiled in his report, that the said right of ownership has ever been exercised, with the knowledge of the authorities in the Sudan, over any individual in any part of the country. Article 1 of the Supplementary Convention deals with the complete abolition or abandonment of the institutions and/or practices of slavery such as: debt bondage, serfdom or other institutional practices against women and children. Under the clear wording of the Sudanese Penal Code 1991, there is no way for the Special Rapporteur to suggest that tribal fights and their ensuing practices occurring on various parts of the Sudan fall under the above Conventions. Article 7 of the Supplementary Convention defines a slave as "a person of servile status" following the same definition adopted by the Slavery Convention of 1926. Article 7 further defines slave trade as "acts involved in the capture, acquisition or disposal of a person with intent to reduce him to slavery ...", i.e., that the element of intention is decisive. In the Sudanese tribal fights, which normally result in captives and prisoners of war on both sides of the conflict, there is no such intention. As such, the attempts of the Special Rapporteur to interpret this Convention as applicable to the case of the Sudan is malicious. It is also rebuttable by the fact that Islam, being the religion of the majority of the Sudanese shunned and prohibited all forms and practices of slavery hundreds of years prior to the adoption of the Slavery Convention of 1926.

75. Under this section of his report, the Special Rapporteur also intentionally implicated the paramilitary forces, including the Popular Defense Forces and the so-called mujahidin in the slavery practices which he described. We are confident in this respect that the Special Rapporteur was misadvised and that the reports given to him in relation to these forces are absolutely inaccurate. However, regardless of whether the practices exist or not, the Government of the Sudan applies the full extent of the law should the relevant provision of the Sudanese Penal Code 1991 be violated. However, what is new in this regard is the involvement, by the Special Rapporteur, of the paramilitary forces such as the Popular Defense Forces. These forces carry on a noble mission of protecting the relief routes and fighting bandits and outlaws who regularly interfere with relief operations. The wrongful projection by the Special Rapporteur of the

role of the Popular Defense Force exposes the biased and politically motivated mission and goals of the Special Rapporteur which aim at embarrassing the pro-Islamic Government of the Sudan.

76. The hatred, irrationality and ill-purposes of the Special Rapporteur led him to describe in his report, an official document of the United Nations, of which the Sudan is a Member, the displaced camps at Al-Dhein, Khor Tagat, Gomelai, Jalabi, Kelekela, Muglad and Shahafa as camps in which women and children are bought by people from northern Sudan, or even from abroad, in exchange for money or goods such as camels. Apart from the fact that this allegation is a distortion of the truth and shows clear malice on the part of the Special Rapporteur, it represents a direct insult to a Member State of the Organization. The Government of the Sudan challenges the Special Rapporteur to prove this allegation, otherwise the Commission on Human Rights is duty-bound to correct its practice of rapporteurship and to appoint a Special Commission to investigate the attitude of the Special Rapporteur regarding this particular allegation.

77. The Government of the Sudan totally rejects as baseless the report prepared by Mr. Gáspár Bíró on the situation of human rights in the Sudan and requests the Commission to investigate the betrayal by the Special Rapporteur of his mandate.

7. Freedom of conscience

78. It is regrettable that the Special Rapporteur applies standards of judgement which, if the Government was accused of applying, it would certainly be in gross violation of human rights. The sweeping and utterly unfounded remarks in paragraph 66 regarding a government policy "of cultural and linguistic assimilation of persons belonging to ethnic, religious and linguistic minorities", are not only implausible, but contradict some other malicious allegations which the Special Rapporteur himself makes. This shows that his only interest is to report as many smears of the Government as can be crammed in his report, even at the cost of consistency and making an utter fool of himself. Without any evidence whatsoever he claims that the Government uses economic inducements, including land distribution, relief food, employment and even violence to induce religious and racial assimilation.

79. Even if it was granted that the Government was so stupid and irrational as to think that murdering people and throwing them out of their homes, or withholding relief from them, would make the Government and the values it espouses attractive to these people, the economic realities would not make such a course practicable. Government employment, given the economic realities, is more a sacrifice than a reward in the Sudan. And as the United Nations records would show, the control of relief supplies is mostly in the hands of non-governmental organizations, most of them Christian and Western. If some people erroneously believe that changing your religion is the way to get relief, this is the legacy of Christian missionary societies, which, during British rule in the Sudan, monopolized education and services, and only offered them to those who accepted baptism. Many Western church-affiliated non-governmental organizations try to repeat what their forerunners did and use tactics such as

disseminating lies about Muslims like the ones peddled by the Special Rapporteur so as to maintain their tenuous hold over the population. The Government is trying hard to educate the people against succumbing to such ruses, but our efforts are not helped by some non-governmental organizations, which have an interest in spreading these lies. Islam has never needed inducements of this kind to spread; quite the contrary. The Islamic values which the Government promotes already have the support of the majority of the population, and that is the very reason why the Government is promoting them.

80. The Special Rapporteur maliciously implies that the scattering of families in some displaced camps is deliberately engineered by the Government in order to help assimilation. He also implies that the type of education provided for the displaced is exclusively provided by Islamic non-governmental organizations. In both cases, he is trying to mislead, we regret to say, deliberately. Had he wanted to find out the truth, he would have found out that education for the displaced is provided by the State. In fact, the educational institutions provided by Muslim non-governmental organizations are private and very expensive. The displaced would not be able to gain access to these much sought after institutions. The State education, just like that in any other country, reflects the lowest common cultural denominator, with special allowances for religious and linguistic minorities. No one accuses the United States of America or the United Kingdom of Great Britain and Northern Ireland (or Hungary for that matter) of bias against minorities because the medium of instruction in their schools is the language of the majority, or because they cater to the culture of the land in their educational systems. That is what education is all about. Within its means, the Government caters to the needs of the minorities. For example, the teaching of Christianity in State schools in the north has been made available for the first time under this Government to cater to rising demand. In addition, there are many very prestigious church-run schools in Khartoum and elsewhere. There is thus no truth whatsoever in the Special Rapporteur's allegations in this regard.

81. The Special Rapporteur claim that the security authorities "confiscated" the religious centre around the Mahdi's tomb is singularly misinformed and reflects on the quality of his information and the utter lack of care which he displays in authenticating his allegations. The said centre has not been confiscated, because it is already State property. The administrative decision of handing control of it from the Department of Antiquities to the University of the Holy Quran was designed to enhance its value as a living religious and national symbol for all Sudanese. The "reports" which the Special Rapporteur quotes, about the "confiscation" of other mosques run by Ansar al-Sunna or the Khatmiyya are, like most of his allegations, untrue. It is also untrue that members of any sect or religious community were harassed or targeted, since, on the contrary, the Government encourages the free self-expression of all these groups.

82. The reports about the interrogation of churchmen by the security forces, like the interrogation of any other citizen, should not be judged as having originated in religious bias. If it had, all priests and nuns would have been targeted. However, the majority of men of religion enjoy good relations with the Government which subsidizes all churches in the country. However, if churchmen try to force their sexual advances on 15-year-old girls, and the said

minor and her family lodge a legal complaint, which is adjudicated by the courts, the Government would be in serious breach of every legal principle if it intervened to prevent the law from taking its course. This was not a case of the Government against this or that bishop, but there was a third aggrieved party who has rights protected by the law. The Special Rapporteur and those hired by him appear totally unconcerned about these rights. This, if anything, shows that the mission of the Special Rapporteur was not about rights.

83. Religious activities in the Sudan, especially evangelism, are subject to laws which seek to preserve religious and social harmony in the country. Even the British authorities during the colonial period recognized this. Church leaders must respect the laws and regulations governing these activities anywhere. The law prescribes how such situations are to be dealt with. These laws apply to Muslims and Christians alike, and Christians should not claim special prerogatives to defy the law just because the Secretary-General or the Special Rapporteur are also of that faith. We would not accept foreign dictation in this area, as the Government and the local authorities in each area are the best judges of what is in the best interest of religious harmony in that location.

84. Only a confirmed anti-Muslim fanatic like the Special Rapporteur would make such a statement as this one: "Islamization ... among Ingessana tribesmen ... reached alarming proportions". It may be the Special Rapporteur's prerogative to express alarm that Islam is spreading. (He made no comment whatsoever about the reports of an "alarming" number of conversions to Christianity in both government-controlled areas and rebel-held areas, or the proliferation of churches to the extent that Khartoum State had 572 new churches by February 1993.) However, he must get his facts right first. To start with, not all of the inhabitants of Damazin Province are Ingessana tribesmen, and the majority of the population of the area (if we need to alarm the Special Rapporteur more) are already Muslim. The Popular Defence Forces are multi-religious.

85. The uniforms for schools are prescribed by regulations and reflect the already acceptable norms for the majority of the population. Private schools, the majority of whose students are Muslims anyway, cannot be allowed to impose uniforms by their own regulations which do not respect these norms. In areas where no uniform is prescribed, such as in university, the Government does not interfere, and, if we need to alarm the Special Rapporteur even further, we can inform him that the majority of the students there respect the Islamic norms of their own free will. Since the majority of the school population is Muslim, and since it is contrary to educational principles to discriminate between children, the only natural course is for all to follow the norms which are acceptable to the majority and are not in any way against the values of the minority. There is nothing in Christianity which says that it is against Christ's teachings to dress decently; quite the contrary. So we fail to see what the outcry is about. We also find it extremely offensive that the audacity and arrogance of the Special Rapporteur and those behind him has reached a level that they think it is fit to tell us what our children should wear at school. What next?

86. In line with his blatant bias, the Special Rapporteur dutifully logs allegations about the alleged destruction of churches in the fighting. However,

no mention is made in his report of the fact that the SPLA, in all areas it captured, always started by cutting the throats of the imam of the mosque and the muezzin. Most mosques in SPLA territory had either been destroyed or turned into ammunition stores or liquor houses. By contrast, there was never a desecration of places of worship by the Government or those under its control. And they could not do that, if only because nearly half of the government soldiers are Christians. Thus, the Special Rapporteur is blind to the lack of freedom of worship where it exists and sees persecution where it does not exist. One wonders why.

87. The term "jihad" which is Arabic for "just war", is part of the cultural and linguistic heritage of the Sudanese people, and we make no apologies for using the term in the context of the just war that the majority of the Sudanese are waging to safeguard the common interest of society. The context of southern Kordofan in particular, is relevant, since the people there, of all ethnic groups, are defending themselves against a minority which as the Special Rapporteur reluctantly reports, had been wreaking havoc on the lives of the majority in order to achieve its political objectives. Surely, the struggle for self-defence against aggression in this context is the most just of just struggles, and the people there were right to describe it in the terms of the symbols they cherish.

88. The rule on apostasy is unanimously upheld by Muslims as part of their faith. The Government, the Special Rapporteur and any other earthy power is powerless to change it. The Government's interpretation of it is the most liberal there is on the spectrum of Muslim opinion. We are not here in the business of consulting the United Nations or anybody else about fundamental matters of faith. We only seek to bring a little enlightenment to those who may benefit by it.

8. Freedom of expression, association and peaceful assembly

89. It is symptomatic of the Special Rapporteur's utter lack of respect for his mandate of seeking "reliable information" that he consistently fails to find out what is actually happening in the areas where he is dishing out instant judgements. He is completely oblivious to the law passed last year that gave private companies the right to publish newspapers and other publications. He is also oblivious to the fact that, as of 28 January 1994, the Government relinquished all control of the main daily papers and their publishing houses, allowing them to compete as private entities with other privately owned publications. Already at least one new private publishing house has emerged to compete with the privatized companies. All his statements about Government monopoly of the media are therefore redundant and pointless. Even in the field of radio and television, the Government's networks are poorly funded competitors to powerful international broadcasting agencies of both radio and television, which are freely and widely received in the Sudan. It is, in fact, the Government which should complain about lack of access and inability to make its views and case heard, since powerful international media conglomerates (and the Special Rapporteur) are constantly giving space and credence to reports of its opponent, while its voice goes unheard.

90. It is disingenuous of the Special Rapporteur to try to link the media to how the criminal law is interpreted. The provisions against obscene publications in the criminal law are similar to the provisions in almost any other country, and it is absurd to say that the authorities are dictated to by the media. It is doubly absurd since he claims that the media are directed by these same authorities. The claim he makes about the confiscation of certain publications is typical of his rash and ill-considered judgement about matters he has no knowledge of. He could not possibly know what was contained in the publications concerned or whether they included inflammatory material that could seriously harm communal relations in the country or not. So how can one make a judgement about matters one is completely ignorant about, unless prejudice and malice is the ruler of the day in such reportage?

91. In any country of the world, elections and the information of political associations are regulated by the law. As long as the regulations allow free expression and full participation of all citizens without discrimination, certain types of associations and organizations which have caused universally acknowledged harm should be temporarily proscribed. It is only common sense to try to progress beyond situations that led to repeated stalemate, harmed the progress of the country and fed strife and disharmony. Not even the opposition is calling for a return to the discredited party system. The opposition's programme calls for a five-year interim period in which no parties would be allowed to take part in government. The present Government is only implementing policies that have unanimous backing in principle, and its programme differs from that espoused by the opposition in that it has more popular support. In the end, the people will decide how they want to run their country by electing the representatives they trust. We are also not in the business of taking advice from unemployed lawyers about how to run our country.

92. The Special Rapporteur's ill-informed statements about the views of the students of the University of Khartoum are no better than his other unenlightened and grossly biased remarks. An election took place which was run by an independent committee and observed by representatives of all candidates. Only after the results were announced did the losing party allege irregularities. Their claims were investigated by another independent judicial committee, which declared them to be unfounded. That the Special Rapporteur should voice disquiet over the legal procedures taken against others and neglect the illegality of their acts, which violated the rights of the majority, only shows where his sympathies lie.

93. The Special Rapporteur produces no evidence for his claim that the majority of lawyers in the Sudan boycotted the elections of the Bar Association or even had any misgivings about the way in which their Association was being regulated. The regulations in question were proposed by the lawyers themselves and were promulgated in full consultation with them. The view of a handful of former lawyers living abroad, some of whom have not practised in the country for more than two decades, is hardly the barometer of lawyers' opinions in the country.

9. The rights of the child

94. At the outset, we would like to submit that the Special Rapporteur is in no position at all to report about the rights of the child in the Sudan for the obvious reason that he (while at Khartoum) turned down an official invitation to attend a seminar on the rights of the child held at Khartoum from 18 to 20 December 1993 under the auspices of the Sudanese National Council for Child Welfare and UNICEF. He turned down the invitation as he had decided to leave Khartoum on 17 December 1993 one day before the opening of the seminar, in order to meet his Christmas plans.

95. Yet, this is another clear example where the Sudan opened the doors wide open for the Special Rapporteur to have first-hand information about a very important issue (children), in the presence of the competent United Nations agency (UNICEF), but he refused to avail himself of that opportunity, which would have precluded him from reporting at length the unfounded allegations contained in paragraphs (86 to 168) of his report, starting with a very dramatic and sweeping introductory phrase: "The Special Rapporteur received numerous reports from all over the Sudan concerning violations of the rights of the child as laid down in the Convention on the Rights of the Child (1989)."

96. It is the attitude of the Special Rapporteur to use such sweeping remarks to distort the image of the Government, while his mandate obliges him to verify such reports before reiterating their contents.

97. As was the case with regard to the different aspects of the mandate, the Government of the Sudan has been keen to give the Special Rapporteur a true picture of the rights of the child in the Sudan, but as evidenced by that incident the Special Rapporteur has been turning a blind eye and a deaf ear. Nevertheless, the efforts of the Government have continued, and that is why the Government decided, immediately after the conclusion of that seminar, to send to the Special Rapporteur by express courier the final report and the recommendations of the seminar to his home address, where he was enjoying the Christmas holidays and using his imagination to report about the rights of the child in the Sudan. As expected, he did not report that incident or even acknowledge receipt of the documents sent to him.

98. As for the substance of the issue of the rights of the child in the Sudan, our response is set out in the following paragraphs.

First: on the theoretical level

99. The representative of UNICEF at Khartoum, Mr. Tarig Farougi, mentioned in his statement before the above-mentioned seminar on 18 December 1993 the following:

(a) With regard to children in the Sudan, we have noticed, during the past four years, that there have been many clear milestones;

(b) The Sudan is one of the promoters of the Convention on the Rights of the Child;

(c) The Sudan is the second Arab country to ratify that Convention;

(d) The Sudan ratified the Convention without any reservations. That was in full compliance with the recent call for minimization of reservations, as reflected in the Vienna Declaration and Programme of Action.

100. In addition to the statement of the representative of UNICEF, and on the theoretical level, we would like to make the following observations:

(a) The rights of the child are now not only part of the laws of the Sudan, but, actually, the welfare of children has been made a constitutional obligation on the Government under article 7 of Constitutional Decree No. 7, promulgated on 16 October 1993. We believe that no country has gone that far, and such pioneership should have been commended by the Special Rapporteur;

(b) The seminar referred to above, took note with appreciation of the government initiative to review and revise all legislation pertaining to children, since the Minister of Justice has, by resolution No. 39 dated 22 May 1993, established a Committee for that purpose. The confusing references by the Special Rapporteur as regards children's legislation in the Sudan, are actually dealing with a matter that was taken care of long ago by the Government, and that initiative was recognized and welcomed by a seminar held under the auspices of UNICEF. Such important and relevant information should have been collected by the Special Rapporteur, who visited the Sudan twice in less than four months when that information was readily available at the UNICEF office in Khartoum.

Second: on the practical level

101. The representative of UNICEF in the seminar also addressed practical aspects by stating the following:

(a) In 1992, the Sudan launched a national plan for the protection and welfare of children and consequently became one of the only four African countries which had done so;

(b) There are many achievements that could be mentioned in this context, including the Wad Medani Workshop on the rights of the child, the comprehensive vaccination, and the commencement and successful continuation of Operation Lifeline Sudan.

102. What else would a reasonable man require of the Sudan on the practical level, after having launched that national plan and achieved those objectives. Actually, there are many other achievements, but we are keen to confine our references to those acknowledged by the representative of a competent United Nations agency so as to show how biased the reporting of the Special Rapporteur was.

103. Lastly, it is worth mentioning that the Government has committed itself to the recommendations of that seminar.

Children living in the street

104. From the international media coverage, almost everyone is familiar with the multiple risks and dangers confronting street children, including addiction, pornography, prostitution and the sale of organs.

105. The strategy of the Government of the Sudan in this connection has been to adopt effective, preventive and curative measures so as to prevent and if need be eradicate those vices altogether. That strategy has been and is working very well. The Special Rapporteur himself, with all his bias, has not reported the existence of any of those vices, but, as expected, no recognition or appreciation was expressed by the Special Rapporteur for the efforts of the Government.

106. However, the Special Rapporteur did not rest contented with his failure to recognize the efforts of the Government, but has made the utmost effort to build a case against the Sudan by alleging that the Government is gathering the children in certain camps against their will, and that such action should only be done by an order of a court of law.

107. In fact that allegation does not hold water because it contradicts article 3 of the Convention on the Rights of the Child, which provides, inter alia: "In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration."

108. It is clear from the foregoing article that welfare actions concerning children do not in all cases require court orders. The public or private welfare institutions and the administrative authorities can take actions concerning children under only one condition, that such actions are in the best interest of the child.

109. The Government was actually doing nothing more than what is warranted by the above-mentioned article, and its national plan in that regard has been commended by the representative of UNICEF as making the Sudan one of the four leading African countries with such national plans. On the other hand, street children are really competing for the welfare programmes of the Government, which are confined to limited numbers because of budgetary constraints, so how can the Special Rapporteur dare to state that those children are detained against their will.

110. As explained in paragraph 91 of the report, the Special Rapporteur, during his second visit to the Sudan, met privately with a child who had been retained for three years in those camps. It should be noticed that the child did not testify that he had been detained or kept against his will or that he had been subjected to any religious or political indoctrination. Nevertheless, when the Special Rapporteur started raising queries about those camps during his second visit, he was invited for the second time to visit them, but, surprisingly, he refused to go. In his report, he tried to make excuses for his refusal to visit those camps by saying the time was late in the evening, but he did not tell us why he did not request to visit them after he cancelled his trip to Juba and

Malakal, since that cancellation gave him two more days at Khartoum. It seems that he preferred, as usual, to get his information from indoor consultations with biased sources rather than to go and see for himself and collect first-hand information. Accordingly, the Special Rapporteur is in no position to report anything about those camps, and his wrong reading of article 3 of the Convention is unexcusable.

111. We conclude the issue with the following additional observations:

(a) The wrong translations of the titles of some legislation referred to in paragraph 88 are too insignificant to be reported or responded to;

(b) In the same paragraph, the Special Rapporteur places his own shortcomings on the shoulders of the Government by blaming the Government for not making available copies of certain legislation, while the normal procedure provided for in resolution 1993/60 is that the Special Rapporteur is obliged to seek the information. So, a copy was not provided because he did not ask for one, as simple as that. The same argument applies to the information regarding the activities of the High Council, referred to in the same paragraph, and the meeting with the representatives of the Ministry of Social Planning;

(c) The Special Rapporteur expressed his satisfaction with the living conditions of the children in those camps and evidenced the variety of subjects taught to them, including mathematics (para. 92);

(d) The Government has reported in detail about the camps to specialized agencies, as referred to in paragraph 94 of the report. Such reporting included documents CRC/C/3/Add.3 and CRC/C/3/Add.20.

Abduction of children

112. The issue of kidnapped children referred to in paragraph 95 is not true. It is either created by the Special Rapporteur or by the sources that provided him with the information. But if he had provided specific names of persons engaged in such illegal practices, the Government would not have hesitated in taking immediate legal action against the persons involved, especially since the crime of abduction is punishable under the Sudanese Penal Code by imprisonment for a period not exceeding 10 years or fine or both penalties.

The status of minors

113. Concerning the status of minors, with special regard to penal responsibility and the death penalty, referred to in paragraph 96, where the Special Rapporteur has agreed fully with the preliminary observations of the Committee on the Rights of the Child, we need only repeat here that the Government of the Sudan has already established a Committee for that purpose and that that initiative has been commended expressly in the final report of the seminar already referred to above which the Special Rapporteur declined to attend. Actually, if he had attended that seminar, or at least looked into the final report of the seminar sent to him, he would not have written all those paragraphs about children in his report (paras. 86 to 108).

Sale or traffic of children

114. In paragraphs 97 and 98 the Special Rapporteur reported a very serious allegation concerning the abduction and sale of large numbers of children. But instead of providing credible and reliable information as required under his mandate, so that the Government could move immediately and take legal action against all persons involved in such notorious practices, the Special Rapporteur uses very weak language stating that "the mass abduction and traffic (including sale) seem to be an organized and politically motivated activity ... which seem to be well founded". What else could he verify if he fails to substantiate and prove such a purported mass abduction, which could not be concealed if it really existed.

115. We are positive that those allegations have no factual base whatsoever, but the Special Rapporteur meant to report them only to distort the image of the Government. This ulterior intention has even made him go back, in tracing those allegations, to the year 1986, as in paragraph 98, forgetting the time-frame which he drew for his mandate in paragraph 8 of his report: "The Special Rapporteur has therefore decided to concentrate in the final report on violations which have occurred after 30 June 1989."

The right of the child to identity and education

116. When making allegations concerning religious conversion and changing of names in paragraph 99, the Special Rapporteur did not even bother to mention the source of his information, let alone comment on the credibility or reliability of the source. Accordingly, we submit that those allegations are not true and should not have been reported, because to report such a serious allegation without having any credible evidence would bear negatively on the Government.

117. On the other hand, in the same paragraph, the Special Rapporteur reported that he personally witnessed religious and political indoctrination of the children in the camps for displaced persons, but without telling us what he means by that. Therefore, there is no alternative but to challenge the Special Rapporteur to prove that what is taking place in any of those camps is a violation of the human rights of those children.

118. The imposition of Arabic as the only medium of education as referred to in paragraph 100 is not a violation of human rights, but is within the prerogative of any sovereign Government, and such unwarranted interferences by the Special Rapporteur cannot be tolerated.

Children in conflict zones

119. We fully support the following statement contained in paragraph 101: "the fact that children have been used as soldiers in the conflict by all factions of the SPLA can also be confirmed by the Special Rapporteur". We urge the Special Rapporteur to support the efforts of the Government in bringing those children back to their families and condemning the SPLA for such immoral and illegal practices.

The rights of women

120. With regard to the rights of women referred to in paragraph 102, we again challenge the Special Rapporteur to mention the new laws and regulations "which caused concern both at the national and international level among activists and organizations dealing with the rights of women". Actually, there are no such laws and regulations except in the imagination of the Special Rapporteur, since women in the Sudan have been enjoying equal rights with men, including the right to equal pay before that right was even recognized in many western countries.

121. As for the testimony of women in certain cases, we would like the Special Rapporteur to know that it is ordained by God, and, as such, comes under freedom of religion guaranteed by the various human rights covenants and for those reasons combined we do not tolerate any comments regarding the issue.

122. It is good that the Special Rapporteur found himself obliged to report positively about the political rights enjoyed by women in the Sudan. In paragraph 104 he states: "As far as the political rights of women are concerned, the Special Rapporteur notes that although the Sudan is not a party to the Convention on the Political Rights of Women (1952), the exclusion of women from political activities, including the right to elect and the right to be elected, to hold public office and to exercise public functions, was not reported." The Government of the Sudan has always claimed that it respects human rights even if it is not obliged to do so by international law, but nobody listened until that claim was proved by the Special Rapporteur himself.

123. Despite all that, the Special Rapporteur reported in the same paragraph that abusive dismissal of women was reported to him, but since no names were given, the Government can take no remedial action and assures that no such actions are taking place.

124. With regard to the references in paragraphs 105 and 106, we would like to explain that the requirement of muhram is ordained by God, and our previous comments regarding what has been ordained by God apply to it. As for the public places or otherwise, they are only of a persuasive nature, and the Popular Police Forces were not created purposely to implement them.

125. The question of the women's prison referred to in paragraph 107 struck the attention of the Special Rapporteur during his first visit, and he requested the authorities to improve the living conditions. The Government took immediate measures and allocated more than 5 million Sudanese pounds for that purpose. During the second visit, the Special Rapporteur witnessed the progress of work and commended those efforts. Now he is raising a new issue that those women were convicted for dealing in alcohol, which for them is the only means of earning a living and that they are not able to pay the fines. We are happy to report to the Special Rapporteur that the Government is deeply concerned by that issue and measures were taken to address it before he became aware of it. Those measures included the release of 200 of these women before they had finished serving their sentences and efforts by the Ministry of Social Planning to work on a social solution to the problem.

126. We welcome the fair remarks contained in paragraph 108 regarding the legislative measures taken and the national campaign launched by the Sudanese Women General Union against female circumcision and other harmful practices.

10. Freedom of movement and residence, including the right to leave or return to the country and possession of documents concerning personal identity, with special regard to nationality

127. As is the case with other matters covered in his report, the Special Rapporteur tried as well as to give a wrong impression about freedom of movement and residence, including the right to leave or return to the Sudan and possession of documents concerning personal identity.

128. According to Constitutional Decree No. 7, everyone lawfully within the territory of the Sudan is entitled to the right to liberty of movement and freedom to choose his residence. There are no restrictions over such rights, except those recognized in all jurisdictions and which are provided by law and are necessary to protect national security, public order, morals or the rights of freedom of others. The restrictions referred to by the Special Rapporteur in southern Kordofan and the southern states, are necessitated by the state of emergency existing in those areas, being combat zones, and the United Nations Secretary-General, as depository, was duly notified of this.

129. References under this section of the report to house arrest of leading figures, are totally incorrect. It is also untrue that leaving the Sudan means difficult bureaucratic procedures or that approvals mainly depend on political reasons. Many opposing political leaders have left the country recently and continue to do so without being subjected to such procedures.

130. As to paragraph 113 of the Special Rapporteur's report, the Sudanese Embassy at Cairo or in other places does not retain the passports of those suspected of being opposed to the Government. As stated by the Sudanese Ambassador at Cairo, those who have such complaints could contact him directly in that regard. It was obvious that the Special Rapporteur tried to make an issue out of nothing in paragraph 113 of his report.

B. Abuses by other parties

131. Since the last round of the civil war started in the south in 1983, there have been serious abuses of human rights committed by the SPLA in southern Sudan. As regards the information received by the Special Rapporteur about the arbitrary detention of government soldiers and internal dissidents, including torture in detention, he has not verified this in his report, not being aware even of the circumstances in which some of the soldiers were arrested and tried. The fact is that in 1990 there was an attempted coup d'etat which was foiled by government troops. As a result of the failure, a proper investigation was carried out, and those found innocent were set free while those found guilty were tried by court martial. It is common knowledge that whoever attempts to overthrow any Government and fails must bear the consequences in accordance with

the laws of that nation. That is why, in our view, the Special Rapporteur has completely distorted the facts, which otherwise and on closer examination are straightforward and clear.

132. We do agree that the split of the SPLA into two factions and the ensuing fighting between them has wreaked great havoc as a result of indiscriminate attacks on civilians by both factions. After the government forces recaptured most of the towns which were occupied by the SPLA, the civilians came back to the towns for security, food, medicines and clothes. The Government is taking care of these civilians, many families were reunited and the Government has welcomed the assistance of non-governmental organizations in the process. Since the SPLA has abducted a large number of children, the Government has repeatedly urged the SPLA to return them to their parents but the efforts of the Government were in vain.

133. It must be stressed, however, that the fighting between rebel factions has endangered and obstructed relief work. It also led to a regrettable incident in which three United Nations relief workers and one foreign journalist were killed near Nimule in September 1992. The Government of the Sudan, on its part, condemned the incident. Unfortunately, there was no retribution against the perpetrators of this crime, and it seems that the Special Rapporteur chose to be oblivious to this incident.

134. Meanwhile, on 5 December 1992, an agreement was reached at Nairobi to supply relief to the areas affected by famine in southern Sudan, but the SPLA violated it. In early 1993 there was a country agreement with non-governmental organizations, and in the same year a representative of the Secretary-General visited the Sudan twice and expressed his appreciation for the arrangement provided by the Government, yet the SPLA blocked the execution of this agreement too.

135. The General Assembly at its forty-eighth session endorsed the efforts made by the Government of the Sudan in the delivery of relief supplies and humanitarian assistance. Unfortunately, the SPLA has interfered with the flow of the supplies and has confiscated some of the river deliveries, an act which was condemned by United Nations officials. At the present time, they have refused to open the way to Kenya, thus preventing relief supplies from reaching the border areas.

136. It is really surprising that the Special Rapporteur made in that part of his report an allegation, without verifying the facts, that the Government of the Sudan was killing civilians. The fact of the case is that those killings were the result of the fighting among SPLA factions representing Dinka and Nuers groups.

137. Allegations have also been made against the Government for discrimination against certain sections of the population professing different views. In fact, all citizens of the Sudan, irrespective of their religious affiliations, lived in harmony, free from discrimination and religious intolerance, but this situation changed drastically with the inception of the rebellion in 1983, as a result of which the population of the south has suffered severely. A case in point is the suffering to which the people of Equatoria has been subjected

because they have tried to protect their families and property from the outrageous attacks of the rebel forces.

138. The report of the Special Rapporteur did not honestly reflect the magnitude of the violations of human rights committed by the Nasir faction. The entire Dinka community living in Konqor and Bor was raided, looted and eventually chased away from their homes. In the course of these raids more than 2,000 Dinkas were killed, not 118 as the Special Rapporteur has reported, so the Sudan is unnecessarily required to defend itself against those unfounded allegations, as the result of the attitude taken by the Special Rapporteur and his inclination to distort the facts.

139. It is clear that human rights, including minority rights, are, under international law, a matter of legitimate concern to the international community and their violations should be condemned. We agree fully with paragraph 119 that the Garang faction "raided villages of the Toposa tribe around Kapoeta in eastern Equatoria, allegedly taking revenge on the civilian population for the involvement of Toposa militia in the capture of Kapoeta by the Government" the raid was carried out by the Garang faction on account of the fact that the Toposa tribes have been opposing the SPLA and defending their own cattle and children from the SPLA. The accusation against Toposa that they had supported the government forces in the capture of Kapoeta town, which led to the raid by Garang, is not true, because the Sudanese army was able to recapture all the towns occupied by the SPLA without assistance from any militia forces.

III. CONCLUSIONS

140. Considering the damage done by the report it will take far more than the good intentions of many of the distinguished members of the Commission to remedy that damage. The Special Rapporteur has kept vigil over the application of Shariah in the Sudan, in particular the penal legislations, in complete disregard of the freedom of religion guaranteed by various human rights conventions. He was peculiarly haunted by that issue to the extent of using profane language and blasphemous composition and concluded by calling for its abolition, thereby hurting the feelings of Muslims worldwide.

141. He uncompromisingly used the whole of his report to attain that objective, turning a blind eye to the limits of his mandate and the requirements of credibility and reliability of information called for in Commission on Human Rights resolution 1993/60. Moreover, he turned down two official invitations extended to acquaint him with first-hand information regarding two issues of his main concern and reported in an unbalanced manner regarding the atrocities committed by the rebel factions.

142. Before making definite submissions to this august body, we would like to corroborate our position on the shortcomings of the Special Rapporteur by citing quotations from the report prepared on 10 January 1994 by Mr. Jan Pronk, the Minister for Development Cooperation of the Netherlands, who visited the Sudan during the same year (1993). His report was submitted to the Speaker of the Dutch Parliament. The quotations cover different aspects of the situation of human rights in the Sudan and they are as follows:

(a) The Government has enabled the Minister to get credible and reliable information: "I accepted this invitation on the condition that I could go where I wanted and speak with whom I wanted ... I visited the following villages selected by myself on the spot ... we had the opportunity to select the discussion partners ourselves. A number of conversations took place without official presence";

(b) There are adequate basic provisions: "The peace villages set up by the government authorities for fled Nuba people made an organized impression with, under the circumstances, adequate basic provisions. Apart from this, the villagers have been allocated pieces of land on which they grow their own food";

(c) Freedom of movement guaranteed: "In Kadugli, I also had talks with representatives of two Christian churches. Although there had been great problems in the past, such as the restriction of movement and random arrests of priests, the situation had improved ... Christians could now profess their faith without problems";

(d) The security situation improved: "The people I spoke to said that the situation had been very bad a few years ago, when people were killed and ... ganged, cattle was stolen and villages destroyed. Right now the security situation is improving and [every] one is gradually returning to the deserted villages";

(e) The Government favours peaceful settlement of the conflict: "During talks with the government leaders it appeared that both the so-called hardliners as well as the more moderate are, even more than in April 1993, in favour of a quick ending to the war in the south by means of negotiations ... The preparedness of the present Sudanese leaders to reach a lasting solution to the conflict in south Sudan by means of realistic negotiations seems to have increased".

143. The above-cited quotations of such a reliable source as the Minister for Development Cooperation of the Netherlands, which cover different aspects of the situation of human rights in the Sudan, support our request to the Commission for the following:

(a) Withdrawal of and disregard of paragraphs 59 to 61 and 133 (a) of the report regarding the abolition of Shariah legislation in the Sudan being contradictory to article 18 of the Universal Declaration of Human Rights and article 18 of the International Covenant on Civil and Political Rights;

(b) That the necessary remedial measures be taken to comfort the feelings of Muslims worldwide for the blasphemous reference in paragraph 61 of the report;

(c) That the report not be considered as it is a mere collection of allegations not supported by credible and reliable information as requested in paragraph 5 of Commission on Human Rights resolution 1993/60 and is, at the same time, contradictory to the report dated 10 January 1994 prepared by another reliable foreign dignitary who visited the Sudan during the same year (Mr. Jan Pronk, the Minister for Development Cooperation of the Netherlands);

(d) That cognizance be taken that the Government of the Sudan is in no position to cooperate with Mr. Gáspár Bíró because of the contempt he has shown for Islam and his lack of professionalism and lack of impartiality, as well as his hostile attitude;

(e) That the consideration of the situation of human rights in the Sudan be discontinued, as the Sudan has complied fully with resolution 1993/60.

144. In conclusion, and in view of the unreserved cooperation by the Government of the Sudan with the Commission on Human Rights and the fact that the Sudan has indicated its commitment to respect and observe its obligations under the various international human rights instruments, the Government of the Sudan is hopeful that this august body will favourably consider the above requests.